

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 882

By: Senator L. Chesterfield
By: Representative Fielding

For An Act To Be Entitled

AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC DEVELOPMENT ACT; TO REQUIRE CONSTITUTIONAL OFFICES TO COMPLY WITH THE MINORITY BUSINESS ECONOMIC DEVELOPMENT ACT; TO EXPAND THE SIZE OF THE MINORITY BUSINESS ADVISORY COUNCIL; TO MAKE TECHNICAL CORRECTIONS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE MINORITY BUSINESS ECONOMIC DEVELOPMENT ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 15-4-303(1) and (2), concerning the definitions to be used under the Minority Business Economic Development Act, are amended to read as follows:

(1)(A) “Exempt” means goods and services classified as exempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the Office of State Procurement of the Department of Finance and Administration and the Division of Minority Business Enterprise of the Arkansas Economic Development Commission and submitted to the Arkansas Economic Development ~~Council~~ Commission for its review and consideration for the purposes of this subchapter;

(2) “Minority” means a:

(A) A lawful permanent resident of this state who is:



~~(A)~~ (i) African American;
~~(B)~~ (ii) Hispanic American;
~~(C)~~ (iii) American Indian;
~~(D)~~ (iv) Asian American;
~~(E)~~ (v) Pacific Islander American; or
~~(F)~~ (vi) A service-disabled veteran as designated by the United States Department of Veterans Affairs; or

(B) A person who:
(i) Is not a lawful resident of this state;
(ii) Meets the definition of a minority under subdivision (2)(A) of this section;
(iii) Owns a business with a physical presence in the state; and
(iv) Employs at least three (3) minorities as defined in subdivision (2)(A) of this section;

SECTION 2. Arkansas Code § 15-4-303(4) and (5), concerning the definitions to be used under the Minority Business Economic Development Act, are amended to read as follows:

(4) “Minority business officer” means the ~~individual within~~ person appointed by the executive head of each state agency with the to:

(A) Handle agency procurement; and
(B) Be responsible ~~responsibility~~ for carrying out the intended purposes of this subchapter;

(5)(A) “Nonexempt” means goods and services classified as nonexempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the office and the division ~~and submitted to the council for its review and consideration~~ for the purposes of this subchapter;

SECTION 3. Arkansas Code § 15-4-303(7), concerning the definitions to be used under the Minority Business Economic Development Act, is amended to read as follows:

(7) “State agency” means a department, an office, a board, a commission, a constitutional officer, or an institution of this state, including a state-supported institution of higher education; and

SECTION 4. Arkansas Code §§ 15-4-304 and 15-4-305 are amended to read as follows:

15-4-304. Creation.

The Division of Minority Business Enterprise of the Arkansas Economic Development Commission:

(1) Is established and confirmed within the ~~commission~~ Arkansas Economic Development Commission under the jurisdiction of the ~~Arkansas Economic Development Council~~ commission;

(2) Shall be operated as a division within the commission; and

(3) Shall perform the functions and duties as provided in this subchapter.

15-4-305. ~~Administrator~~ Director.

The head of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission is the ~~Administrator~~ Director of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission and shall be appointed by the ~~Governor~~ Executive Director of the Arkansas Economic Development Commission.

SECTION 5. Arkansas Code § 15-4-306(2), concerning the duties of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission, is amended to read as follows:

(2) ~~With the participation of~~ Partner with other state departments and state agencies as appropriate to:

(A) Develop comprehensive plans and specific program goals for a minority business enterprise program;

(B) Establish regular performance monitoring and reporting systems to assure that goals are being achieved; and

(C) Evaluate the impact of federal and state support in achieving the objectives established by the ~~commission~~ Arkansas Economic Development Commission;

SECTION 5. Arkansas Code § 15-4-306(6), concerning the duties of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission, is amended to read as follows:

(6) ~~Establish~~ To the extent funds are available, establish a center for the development, collection, and dissemination of information that will be helpful to persons and organizations throughout the state in undertaking or promoting the establishment and successful operation of minority business enterprises;

SECTION 5. Arkansas Code § 15-4-306(13), concerning the duties of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission, is amended to read as follows:

(13) Provide a program effort to ensure participation of service-disabled veterans in Arkansas minority business enterprise activities.

SECTION 6. Arkansas Code § 15-4-307 is amended to read as follows:

15-4-307. Minority Business Advisory Council.

(a) The Division of Minority Business Enterprise of the Arkansas Economic Development Commission shall be represented by a statewide Minority Business Advisory Council ~~and shall report to that council.~~

(b)(1) The council shall consist of ~~seven (7)~~ nine (9) members.

(2) The council shall:

(A) Monitor progress, and make recommendations, ~~and develop strategic plans through the division~~ for performance improvement; and

(B) Report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

(c)(1) The Governor shall appoint ~~three (3)~~ five (5) members of the council with the advice and consent of the Senate.

(2) The President Pro Tempore of the Senate shall appoint two (2) members of the council.

(3) The Speaker of the House of Representatives shall appoint two (2) members of the council.

(4) Appointments shall reflect and be representative of the minority business community, resource organizations, entrepreneurs, corporations, and other minority business advocates.

(d) Except as otherwise provided by law, members of the council shall serve without compensation.

(e) The term of office of the council shall be at the pleasure of the

appointing officer for a period not to exceed five (5) years.

(f) There is established a formal relationship between the council and the ~~Administrator~~ Director of the Division of Minority Business Enterprise of the Arkansas Economic Development Commission.

(g)(1) The ~~administrator and the small disadvantaged business officer~~ director shall be the liaison to the council and shall be responsible for submitting to the council any reports and documents under ~~the provisions of~~ this section.

(2) ~~Their~~ The director's duties in relation to this section shall be considered official duty in the conduct of state business.

(h) The council's duties and responsibilities ~~shall be~~ are to:

~~(1) Review reports and interpret each agency's achievement of its goals;~~

~~(2) Advise the Governor when an agency has not reached its goals;~~

~~(3) (1) Make~~ Receive annual reports presented to the Governor by the division;

~~(4) (2) Recommend to the state agency, the division, and the Office of State Procurement of the Department of Finance and Administration corrective actions to strengthen minority business opportunities in the state; and~~

~~(5) (3) Conduct~~ Participate in public hearings when necessary to obtain public input and support for the purpose of carrying out ~~the provisions of~~ this subchapter.

~~(i) Each state agency, through its minority business officer, shall submit to the division, the council, and the office the agency's plan to reach its goals for the coming fiscal year and shall:~~

~~(1) Be submitted to the division by June 30 of each year;~~

~~(2) Contain the name of the state agency submitting the plan;~~

~~(3) Contain a policy statement signed by the agency head expressing a commitment to use minority businesses in all aspects of contracting to the maximum extent feasible;~~

~~(4) Identify the name of the minority business officer in the agency who is responsible for developing and administering the compliance plan;~~

~~(5) Establish a timetable for the agency to reach its goals~~

~~under the plan and the manner in which the agency intends to reach its goals; and~~

~~(6) Contain any other procedures the division deems necessary to comply with the goals and the compliance plan.~~

SECTION 7. Arkansas Code § 15-4-308(e) and (f), concerning the administration of the Minority Business Economic Development Act, is amended to read as follows:

(e) The division ~~and the office~~ shall maintain a current directory of minority businesses and shall make the directory available to each state agency and minority business officer.

(f) The ~~division office~~ shall ~~serve as a central clearinghouse for~~ maintain information on state contracts, ~~including a record of all pending state contracts upon which minority businesses may participate.~~

SECTION 8. Arkansas Code §§ 15-4-309 – 15-4-312 are amended to read as follows:

15-4-309. Exempt contracts.

~~Upon the approval of the Minority Business Advisory Council, the~~ The Division of Minority Business Enterprise of the Arkansas Economic Development Commission and the Office of State Procurement of the Department of Finance and Administration shall determine the classifications of contracts to be exempted from the goals established by this subchapter ~~whenever~~ when there exists an insufficient number of minority businesses to ensure adequate competition.

15-4-310. Minority business officer.

(a) ~~Each~~ The executive head of each state agency shall designate an individual as its minority business officer.

(b) The minority business officer shall be the person within the state agency with whom the Division of Minority Business Enterprise of the Arkansas Economic Development Commission ~~and the Minority Business Advisory Council~~ shall work in ~~their~~ its efforts to accomplish the goals of this subchapter.

(c) Upon the appointment of the minority business officer in each state agency, the executive head of the state agency shall notify the division and the Office of State Procurement of the Department of Finance and

Administration.

15-4-311. Annual minority purchasing plan.

(a) ~~Prior to June 30~~ Before July 15 each year, each state agency shall submit to the Division of Minority Business Enterprise of the Arkansas Economic Development Commission ~~and the Office of State Procurement of the Department of Finance and Administration~~ a minority purchasing plan that ~~shall outline~~ outlines the state agency's plan to reach its goals for the coming fiscal year.

(b) The minority purchasing plan shall include without limitation:

- (1) The name of the state agency;
- (2) A policy statement signed by the executive head of the state agency ~~head~~ expressing a commitment to use minority business in all aspects of contracting to the maximum extent feasible;
- (3) ~~The name of the minority business officer in the agency who is responsible for developing and administering the compliance plan~~ A statement from the executive head of the state agency that the information submitted by the minority business officer is accurate and complete; and
- (4) ~~The time table for the agency to reach its goals under the plan and the manner in which the agency intends to reach its goals; and~~
- (5) Any other procedures the ~~agency deems~~ Governor and the division deem necessary to comply with the goals and the compliance plan.

15-4-312. State agencies to submit reports.

The Division of Minority Business Advisory Council ~~Enterprise of the Arkansas Economic Development Commission~~ shall require each state agency to produce within fifteen (15) days of the close of each three-month period a report summing up total procurement for all contracts, except exempt contracts of the state agency, and the dollar value and the percentage of the contracts of the state agency awarded to minority businesses.

SECTION 9. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended to add an additional section to read as follows:

15-4-321. State agency responsibilities.

Through its minority business officer, each state agency shall submit to the Division of Minority Business Enterprise of the Arkansas Economic

Development Commission the state agency's plan to reach its goals under this subchapter for the coming fiscal year, which shall:

- (1) Be submitted to the division by July 15 of each year;
- (2) Contain the name of the state agency submitting the plan;
- (3) Contain a policy statement signed by the executive head of the state agency expressing a commitment to use minority businesses in all aspects of contracting to the maximum extent feasible;
- (4) Contain a statement from the executive head of the state agency that the information submitted by the minority business officer is accurate and complete; and
- (5) Contain any other procedures the Governor and the division deem necessary to comply with the goals and the compliance plan.